

Notice of Allowability	Application No.	Applicant(s)	
	10/070,914	HERBERT, BEN	
	Examiner	Art Unit	
	Alan Diamond	1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed December 7, 2004.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☒ The drawings filed on 07 December 2004 and 08 March 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>01262005</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Jennifer Haynes on January 26, 2005.

The application has been amended as follows:

In The Claims

In claim 1, at line 4, after "defining" please insert --both--.

In claim 1, at line 12, please delete "electrodes" and insert in its place --electrode areas--.

In claim 2, at line 2, please delete "trough" and insert in its place --troughs--.

In claim 2, at line 3, please delete "trough" and insert in its place --troughs--.

In claim 2, at line 4, please delete "each" and insert in its place --the--.

In claim 2, at line 4, please delete the two occurrences of the word "means".

In claim 3, at line 2, please delete "the trough" and insert in its place --each trough--.

In claim 3, at line 3, please delete "the trough" and insert in its place --each trough--.

In claim 4, at line 2, please delete "trough" and insert in its place --troughs--.

In claim 7, at line 2, please delete "rehydration area" and insert in its place --rehydration areas--.

In claim 8, at line 2, please delete "trough" and insert in its place --troughs--.

In claim 9, bridging lines 1 and 2, please delete "trough does" and insert in its place --troughs do--.

In claim 9, at line 2, please delete "electrodes contact" and insert in its place --electrode contacts--.

In claim 11, at line 2, please delete "the gel" and insert in its place --each gel--.

In claim 11, at line 2, please delete "strip overlaps" and insert in its place --strips overlap--.

In claim 11, at line 3, please delete "strip" and insert in its place --strips--.

In claim 14, at line 4, after "defining" please insert --both--.

In claim 15, at line 3, please delete "or" and insert in its place --and--.

In claim 16, at line 3, after "defining" please insert --both--.

In claim 16, at line 8, after the second occurrence of the word "electrode" please insert --area--.

2. The following is an examiner's statement of reasons for allowance: With respect to claim 1, Kaplan et al (U.S. 4,151,065) does not teach or suggest a tray defining a plurality of troughs each configured to receive a gel strip, each trough defining both a centrally located rehydration area and an electrode area disposed at either side of the rehydration area. Kaplan et al's trough or tray (30) can be provided with dividers (35) which partition a gel bed in the trough or tray (30) into a number of slabs (Figure 4; col.

5, lines 7-15; and col. 7, lines 10-21). However, said trough or tray (30) does not define both a centrally located rehydration area and an electrode area disposed at either side of the rehydration area. In particular, Kaplan et al's trough or tray (30), as seen in Figure 6 removed from the electrophoresis apparatus, does not define any electrode area, nor is there any means for delimiting a rehydration area from an electrode area. Kaplan et al's electrodes (76) are in compartments (18,24) which are not defined by said trough or tray (30). Kaplan et al's compartments (18,24) exist whether or not the trough or tray (30) is present in the electrophoresis device. Furthermore, the vertical portion of Kaplan et al's gel (60), said vertical portion being an electrode bridge in compartments (20,22), is also not defined by said trough or tray (30), but rather exists whether or not the trough or tray (30) is present. Indeed, the trough or tray (30) can be lifted out of the device after an electrophoresis run, and said vertical portion can be used in a later electrophoresis runs after the trough or tray (30) has be placed again in the device (see col. 7, lines 7-9 and 67).

With respect to claim 14, Kaplan et al lacks a tray that defines both a rehydration area and an electrode area. The electrode areas of Kaplan et al's device are the compartments (18,24) which contain electrodes (76) and buffer, as well as the vertical electrode bridge section of the gel (60) in compartments (20,22), none of which are defined by said trough or tray (30). Likewise, with respect to claim 16, Kaplan et al's trough or tray (30) does not define both a rehydration trough and an electrode trough.

For the sake of argument, even if the body of Kaplan et al's device, comprising horizontal bed (10), compartments (18,24) and vertical sections (20,22) was said to

define a centrally located rehydration area and electrode areas, it should be noted that i) in contrast to instant claim 1, the bed (10) does not define a plurality of troughs, but rather receives the removable, dividable trough or tray (30); and ii) in contrast to claims 14 and 16, if rehydration liquid was added to trough or tray (30) on said bed (10) to rehydrate the horizontal section of gel (60), the liquid would also most certainly contact the electrode bridge (i.e., the vertical section of gel (60)). Kaplan et al is silent concerning rehydration.

As an example of the instant invention, note instant Figures 2a and 2b, where the tray defines both a central rehydration area (16) and an electrode area (20), and wherein the tray also defines a plurality of troughs (12). The tray has clearly defined plural troughs (12). As seen in Figure 2b, the rehydration liquid in the rehydration area is prevented from contacting the electrode area by walls (18).

In Williams et al (WO 99/33550), the electrodes (43) are inserted in tray (11), which has individual troughs. These troughs do not define both a centrally located rehydration area and electrode area at either side of the rehydration area, and there is no means for delimiting the rehydration area of each trough from the electrode areas. Furthermore, any rehydration liquid in Williams et al's device will flow to the areas where the electrodes will contact the gel.

U.S. Patent 6,558,522 is hereby made of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Diamond whose telephone number is 571-272-1338. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Diamond
Primary Examiner
Art Unit 1753

Alan Diamond
January 26, 2005